

Applicant: Robert Lindsay
Serial No.: 10/578,694
Docket No.: 1421-171 PCT/US/RCE
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Amendments to the Drawings:

The attached sheets of drawings includes changes to Figures 1 and 2. These sheets, which includes Figures 1 and 2 replaces the original sheets including Figures 1 and 2.

Attachment: Replacement Sheets
Annotated Sheets Showing Changes

REMARKS

The application has been amended. The drawings have been amended as described below. Claims 1, 2, 4-33 and 40-58 are pending in the application. Claims 1, 4, 5, 23, 24, 32 and 43 have been amended. No new material has been introduced. Entry of this amendment and reconsideration is respectfully requested.

As previously argued, the drawings were objected to under 37 C.F.R. §1.83(a) because they allegedly fail to identify the pre-cut band and tab, or may constitute new matter. Applicant traverses the objection. The specification clearly discloses the pre-cut band and tab at paragraph [0025]. However, in the interest in advancing prosecution, Applicant has removed the pre-cut band and tab from the figures. Submitted herewith are replacement drawing sheets for Figures 1 and 2. Applicant traverses this objection and reserves the right to reintroduce these elements in future prosecution. Accordingly, entry of the amendments to the specification and the replacement drawings is respectfully requested.

Claims 1, 2, 4-11, 24-33 and 40-58 are rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 0814025 to Westerman (hereinafter "Westerman") in view of U.S. Patent No. 3,0942,65 to Hovland et al. (hereinafter "Hovland") and further in view of U.S. Patent No. 5,911,358 to Kenner et al. (hereinafter "Kenner"). In view of the amendments and arguments presented herewith, this determination is respectfully traversed.

Independent claims 1 and 43 have been amended to more clearly define the present invention. The method and apparatus of the present invention include end flaps. Each of the respective end flap includes a curved traverse edge, the curved traverse edge includes a central attached portion and an unattached portion on either side of the central attached portion. The second pair of main panels are foldably connected to the respective end flap at the central attached portion.

Westerman discloses a blank including main surfaces, an auxiliary surface 7 and a folding edge between main surfaces 3, 5 and surfaces 10, 11 and 12. In contrast, the presently claimed invention includes a curved transverse edge of which the flaps are connected to the main panels. However, Westerman fails to teach or suggest curved transverse edges of the end flaps or end tabs connected to end panels at all.

The Examiner cites the disclosure of Hoyland as allegedly teaching a corner leakproof carton including end panels (18) extending from either end of one main panel (13), the end panel further comprise end flaps(19) connected to distal ends thereof. However, the structure of Westerman as discussed in the specification includes the attachment of the surfaces 10,11,12, which is not capable of providing any form of leakproof abilities. It is not obvious to apply the teachings of Hoyland to Westerman since it would not be possible to provide a sealable end closure in a carton having curved walls or walls as disclosed in Westerman. Additionally, Hoyland fails to teach or suggest curved transverse edges of the end flaps or end tabs connected to end panels at all. Thus, Hoyland fails to overcome the deficiencies of Westerman. Accordingly, Westerman and/or Hoyland fail to teach or suggest the presently claimed invention.

The Examiner cites the disclosure of Kenner for the teaching of curved edge end flaps. However, Kenner does not teach or suggest a curved traverse edge including a central attached portion and an unattached portion on either side of the central attached portion, where the central attached portion remains attached to the panel and the unattached portions remain unattached. Instead Kenner teaches a main panel a fold line therein. Kenner does not disclose, teach or suggest an end flap at all. Kenner teaches an entire curved folding line 34, 44 which extends the entire width of the main panel, unlike the claimed invention. Thus, Kenner fails to overcome the deficiencies of Westerman and/or Hoyland. Accordingly, Westerman, Kenner and/or Hoyland fail to teach or suggest the presently claimed invention. Withdrawal of the rejection is respectfully requested.

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Westerman in view of Hoyland and Kenner, and further in view of U.S. Patent No. 6,513,704 to Perot (hereinafter "Perot"). In view of the amendments and arguments presented herewith, this determination is respectfully traversed.

The above-argument equally applies herein as claim 12 depends from claim 1. Specifically, Westerman, Hoyland and Kenner '358 fail to teach or suggest the respective end flap includes a curved traverse edge, and the curved traverse edge includes a central attached portion and an unattached portion on either side of the central attached portion. The second pair of main panels are foldably connected to the respective end flap at the central attached portion. Further, the Examiner acknowledges that Westerman, Hoyland and Kenner fail to teach or suggest a sheet material comprising cardboard.

The Examiner cites the disclosure of Perot as allegedly teaching a sheet material comprising cardboard. Perot discloses a packaging box for bottles including two body panels 2, 3 intermediate sections 12,13 and bottom panels 14,15. However, Perot does not disclose the end tabs or end flaps as recited in the claims. Therefore, Perot fails to overcome the deficiencies of Westerman, Hoyland and Kenner. Thus, Westerman, Hoyland, Kenner and Perot fail to teach or suggest the presently claimed invention. Withdrawal of the rejection is respectfully requested.

SUMMARY

As the claims of the present invention recite a structural feature not found in the cited references, the claims of the present invention as submitted herewith, are believed to be patentably distinct over the prior art of reference.

Having responded in full the present Office Action, it is respectfully submitted that the application is therefore in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,

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